



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,853	03/25/2004	Eric G. Hull	427600700090	6657

7590 10/05/2004
H. Duane Switzer
Jones Day
North Point
901 Lakeside Avenue
Cleveland, OH 44114-1190

EXAMINER

ESTRADA, ANGEL R

ART UNIT	PAPER NUMBER
----------	--------------

2831

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,853

Applicant(s)

HULL, ERIC G.

Examiner

Angel R. Estrada

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-22 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/21/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The information Disclosure Statement filed on June 21, 2004 has been considered by the Examiner.

Claim Objections

2. Claim 21 is objected to because of the following informalities:

In claim 21 line 12, "*a rear cover attached said rear surface and closing said rear opening*" and "*said cover being molded integrally in one piece*", the language is confusing and unclear. If the electrical enclosure (B) has a rear cover (C) attached to the rear surface, then the embodiment that the Applicants is referring to is the one illustrated in figures 2 and 3, and that embodiment does not have a cover molded integrally in one piece with the peripheral walls of the enclosure. The only embodiment described in the specification in which the enclosure (D) has a cover (E) molded integrally to the enclosure is the one shown in figure 4 and that embodiment does not have a rear cover (C) attached to its rear surface. The Examiner assumed that the Applicant was referring to an adapter cover (D) attached to the enclosure (B) and that the adapter cover (D) is the one that has the removable cover (E) molded integrally in one piece attached to the adapter peripheral wall, similar to claim 17.

Appropriate correction is required.

Any further rejection of claim 21 in this office action is based on claim 21 as best understood by the examiner.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, and 9-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kruse et al (US 6,774,307; hereinafter Kruse) in view Hurley (US 6,608,252).

Regarding claim 1, Kruse discloses an electrical enclosure (see figure 2) comprising: an electrical enclosure (58) molded of plastic material (column 4 lines 64-67); said enclosure (58) having a peripheral wall with front and rear surfaces (see figure 2); said enclosure (58) having a cavity within said peripheral wall between said front and rear surfaces (see figure 2); said enclosure (58) having front and rear entrance openings to said cavity at said front and rear surfaces of said peripheral wall (see figure 2); said peripheral wall having a plurality of spaced-apart enlarged bosses (106 or see figure 4) with fastener receiving holes (112) therein adjacent said front opening (see figure 2); said enclosure being positionable with said front surface thereof adjacent to or engaging an inside surface of a concrete form (such as a concrete wall, see figure 1 and 4; or abstract); but Kruse lacks having a removable cover of plastic material closing said front entrance opening. Hurley teaches an electrical enclosure (10) comprising a front opening entrance, a peripheral wall, a cavity (see figure 2) and a removable cover (26) of plastic material closing the front entrance opening (see figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was to provide to

Kruse's enclosure with a removable cover for closing the front entrance openings as taught by Hurley to provide means for protecting the wires inside the electrical enclosure against the ingress of dirt, mud, plaster, concrete or any other materials used for building a wall.

Note: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). Therefore, this limitation "*for use in poured concrete construction*" and "*for sealing said front entrance opening against entrance of poured concrete into said cavity*" has not been giving any patentable weight.

Regarding claim 2, the modified Kruse discloses the enclosure (see figure 2) wherein the removable cover (26 of Hurley) has an outer cover surface that is flush with or recessed within said cavity from said front surface of said peripheral wall (as taught by Hurley, see figure 2 of Hurley).

Regarding claim 3, the modified Kruse discloses the enclosure (see figure 2) wherein said cover (26 of Hurley) is a knockout that is molded integrally with said peripheral wall (as taught by Hurley, see figure 2 of Hurley).

Regarding claim 4, the modified Kruse discloses the enclosure (see figure 2) wherein said peripheral wall has an inner wall surface and said cover (26 of Hurley) is separably attach to said peripheral wall at said inner wall surface (as taught by Hurley, see figure 2 of Hurley).

Regarding claim 9, the modified Kruse discloses the enclosure (see figure 2) wherein said peripheral wall has a wall thickness (see figure 1) and said cover (26 of

Hurley) has a cover thickness (see figure 2 of Hurley) that is less than said wall thickness (as taught by Hurley, see figure 2 of Hurley).

Regarding claim 10, the modified Kruse discloses the enclosure (see figure 2), wherein said enclosure (58) is an adapter (see figure 1) having outwardly extending attachment tabs (70) extending outwardly from said peripheral wall adjacent said rear surface thereof for attaching said adapter to a molded plastic box (28, column 5 lines 1-3).

Regarding claim 11, the modified Kruse discloses the enclosure (see figure 2) wherein said enclosure (58) is an adapter (see figure 1) and further including a molded plastic box (28) to which said adapter is attached at said rear surface thereof (see figure 1), said box (28) having a box surface opposite from said adapter that is closed by a removable box cover (58, right side).

Regarding claim 12, Kruse discloses an electrical mud box assembly (see figure 1) comprising: a molded plastic box (28, see column 4 lines 4-6) having a box peripheral wall with front and rear box surfaces surrounding front and rear box openings (46 or see figure 1), a molded plastic adapter (58 left side, see column 4 lines 64-67) having an adapter peripheral wall with front and rear adapter surfaces surrounding front and rear adapter openings (see figures 1 and 2); said box and adapter being secured together with said box front surface (46 left side, see figure 1) engaging said adapter rear surface (see figure 1), a box cover (58 right side) secured against said box rear surface to close said rear box opening (46 right side); but Kruse lacks a removable adapter cover closing said adapter front opening. Hurley teaches a molded plastic adapter (10, column 6 lines

36-38) having an adapter peripheral wall with front and rear adapter surface (see figure 4) and a removal adapter cover (26) closing said adapter front opening (see figure 4). It would have been obvious to one of ordinary skill in the art at the time the invention was to provide to Kruse's enclosure with a removable adapter cover for closing said adapter front opening as taught by Hurley to provide means for protecting the wires inside the electrical enclosure against the ingress of dirt, mud, plaster, concrete or any other materials used for building a wall.

Note: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). Therefore, this limitation "*for use in poured concrete construction*" has not been giving any patentable weight.

Regarding claim 13, the modified Kruse discloses the assembly (see figure 1) wherein said adapter cover (as taught by Hurley, 26) having an adapter cover outer surface and said adapter front surface (58 left) lies in a plane, said adapter cover (26 of Hurley) being positioned so that said adapter cover outer surface does not penetrate said plane (as taught by Hurley; see figure 4 of Hurley).

Regarding claim 14, the modified Kruse discloses the assembly (see figure 1) wherein said adapter cover (as taught by Hurley, 26) is located entirely within said adapter peripheral wall (as taught by Hurley, see figure 4 of Hurley).

Regarding claim 15, the modified Kruse discloses the assembly (see figure 1) wherein said adapter cover (as taught by Hurley, 26) is molded integrally in one-piece with said adapter (as taught by Hurley, see figure 4) and said adapter cover (26 of

Hurley) is connected to said adapter (58, left) peripheral wall by a frangible web (as taught by Hurley, 22).

Regarding claim 16, the modified Kruse discloses the assembly (see figure 1) wherein said adapter cover (as taught by Hurley, 26) is integrally molded in one-piece with said adapter (as taught by Hurley) and is a knockout cover that is connected with said adapter by a frangible connection (as taught by Hurley, 22).

Regarding claim 17, Kruse discloses an electrical mud box assembly (see figure 1) comprising: a molded plastic box (28, see column 4 lines 4-6) having a box peripheral wall with front and rear box surfaces surrounding front and rear box openings (46); a molded plastic adapter (58 left side, see column 4 lines 64-67) having an adapter peripheral wall with front and rear adapter surfaces surrounding front and rear adapter openings (see figure 4); said box (28) and adapter (58, left side) being secured together with said box front surface engaging said adapter rear surface (see figure 1); a box cover (58, right side) secured against said box rear surface to close said rear box opening (46, right side); but Kruse lacks a removable adapter knockout cover closing said adapter front opening; and being molded integrally in one-piece with said adapter and being attached to said adapter peripheral wall by a frangible web. Hurley teaches a molded plastic adapter (10, column 6 lines 36-38) having an adapter peripheral wall with front and rear adapter surface (see figure 4) and a removable adapter knockout cover (26) closing said adapter front opening (see figure 4); and said knockout cover (26) being molded integrally in one-piece with said adapter (see figure 4) and being attached to said adapter (10) peripheral wall by a frangible web (22). It would have been obvious

to one of ordinary skill in the art at the time the invention was to provide to Kruse's enclosure with a removable cover for closing the front entrance openings as taught by Hurley to provide means for protecting the wires inside the electrical enclosure against the ingress of dirt, mud, plaster, concrete or any other materials used for building a wall.

Note: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987). Therefore, this limitation "*for use in poured concrete construction*" has not been giving any patentable weight.

Regarding claim 18, Kruse discloses the assembly wherein said adapter front opening (see figure 1) has a different size than said box front opening (see figure 1); but Kruse lacks the adapter front opening having a different shape than said box front opening. It would have been an obvious matter of design choice to make the adapter front opening with a different shape than said box front opening, since such a modification would have involved a mere change in the shape of a component. Where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. Span-Deck Inc. V. FabCon, Inc., 215.

Regarding claim 19, Kruse discloses the assembly wherein said adapter (58, left side) front opening has a different size than said box (28) front opening (see figure 1).

Regarding claim 20, the modified Kruse discloses the claimed invention except for the adapter front opening having a different shape than said box front opening. It would have been an obvious matter of design choice to make the adapter front opening

Art Unit: 2831

with a different shape than said box front opening, since such a modification would have involved a mere change in the shape of a component. Where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular shape, a change of shape is generally recognized as being within the level of ordinary skill in the art. *Span-Deck Inc. V. FabCon, Inc.*, 215 USPQ 835. and *In re. Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 21, Kruse discloses an electrical enclosure (see figure 1) comprising an electrical enclosure (28) molded of plastic material (column 4 lines 4-6); said enclosure (28) having a peripheral wall with front and rear surfaces (see figure 1); said enclosure (28) having a cavity within said peripheral wall between said front and rear surfaces (see figure 1); said enclosure (28) having front and rear entrance openings to said cavity at said front and rear surfaces of said peripheral wall (see figure 1); said peripheral wall having a plurality of spaced-apart enlarged bosses (see figure 1) with fastener receiving holes (64) therein adjacent said front opening (see figure 1); said enclosure being positionable with said front surface thereof adjacent to or engaging an inside surface of a concrete form (such as a concrete wall, see figure 1 or abstract); a rear cover (58, right side) attached against said rear surface and closing said rear opening (see figure 1) and an adapter cover (58, left side) of plastic material; but Kruse lacks a removable adapter knockout cover for closing said front opening molded integrally in one-piece with said adapter cover and being attached thereto by a frangible web. Hurley teaches a molded plastic adapter cover (10, column 6 lines 36-38) having an adapter peripheral wall with front and rear adapter surface (see figure 4) and a

removable adapter knockout cover (26) closing said adapter front opening (see figure 4); and said knockout cover (26) being molded integrally in one-piece with said adapter (see figure 4) and being attached to said adapter (10) peripheral wall by a frangible web (22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the adapter cover with a removable knockout cover as taught by Hurley to provide means for protecting the wires inside the electrical enclosure against the ingress of dirt, mud, plaster, concrete or any other materials used for building a wall.

Note: It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Therefore, this limitation “*for use in poured concrete construction*” and “*for sealing said front entrance opening against entrance of poured concrete into said cavity*” has not been giving any patentable weight..

Regarding claim 22, the modified Kruse discloses the enclosure (see figure 1) including a box (58) and an adapter (28, left side) that are secured together and said rear cover (58, right side) is on said box (28, see figure 1) and said removable cover (as taught by Hurley) is on said adapter (28, left side).

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kruse et al (US 6,774,307; hereinafter Kruse) in view Hurley (US 6,608,252) as applied in claim 4 above, and further in view of Matthews et al (US 6,023,021, hereinafter Matthews).

Regarding claim 5, the modified Kruse discloses the claimed invention except for the cover having a cover inner surface with a plurality of ribs molded thereon. Matthews teaches a cover (10) having a cover inner surface with a plurality of ribs (44,42, 22) molded thereon (see figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the modified Kruse's cover with a cover inner surface with a plurality of ribs molded thereon as taught by Matthews to provide the cover with means that would improve its stiffness and rigidity.

Allowable Subject Matter

5. Claims 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: The primary reason for the indication of the allowability of claims 6-8 is:

Regarding claims 6-8, the prior art does not teach or fairly suggest in combination with the other claimed limitation an electrical enclosure wherein said cover does not overlie said fastener receiving holes, and further including barriers attached to said box for closing said fastener receiving holes against entrance of concrete.

This limitation was found in claims 6-8, and is neither disclosed nor taught by the prior art of record, alone or in combination.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Larsson (US 4,922,056), Whitehead et al (US 5,831,212), Rajacki et al (US 5,420,376), Yetter (US 5,944,210) and Pudims et al (US 6,274,809) disclose an electrical enclosure with a removable cover.

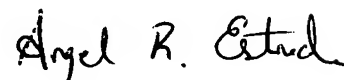
7. Any inquiry concerning this communication should be directed to Angel R. Estrada at telephone number (571) 272-1973. The Examiner can normally be reached on Monday-Friday (8:30 -5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 Ext: 31. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

AE

September 17, 2004



Angel R. Estrada
Patent Examiner
Art Unit: 2831